

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 222 be recommitted to a Committee of One, its sponsor, with specific instructions to amend as follows:

- 1 Page 1, between lines 9 and 10, begin a new paragraph and insert:
- 2 "SECTION 3. IC 16-28-3-3 IS AMENDED TO READ AS
- 3 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 3. If a health facility is
- 4 in breach of this article or rules adopted under this article by ~~offenses~~
- 5 **Level 4 breaches** or patterns of ~~deficiencies~~ **Level 3 breaches**
- 6 detrimental to the best interests of the public, the patients, or the health
- 7 facility profession, the only type of license that may be issued to the
- 8 health facility is a probationary license."
- 9 Page 3, line 14, delete "statements" and insert "**facts**".
- 10 Page 3, line 15, after "complete" insert ".".
- 11 Page 5, line 12, after "documentation" delete ",".
- 12 Page 5, line 12, after "and" insert ",".
- 13 Page 5, between lines 13 and 14, begin a new paragraph and insert:
- 14 "SECTION 5. IC 16-28-5-1 IS AMENDED TO READ AS
- 15 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1. The executive board
- 16 shall adopt rules under IC 4-22-2 to ~~classify each rule adopted by the~~
- 17 ~~executive board to govern a health facility under this article~~ **define**
- 18 **each level of breach as provided in subdivisions (1) through (4) of**
- 19 **this section. The state survey inspectors shall determine under this**
- 20 **article, with the concurrence of the director, the classification of a**
- 21 **breach** into one (1) of the following categories:
- 22 (1) ~~An offense, which presents a substantial probability that death~~
- 23 ~~or a life-threatening condition will result.~~ **Level 4 - immediate**

jeopardy to patient health or safety (as described in 42 CFR 488.404).

(2) ~~A deficiency, which presents an immediate or a direct, serious adverse effect on the health, safety, security, rights, or welfare of a patient. Level 3 - actual harm (as described in 42 CFR 488.404).~~

(3) ~~A noncompliance, which presents an indirect threat to the health, safety, security, rights, or welfare of a patient. Level 2 - no actual harm with potential for more than minimal harm (as described in 42 CFR 488.404).~~

(4) ~~A nonconformance, which is any other classified breach not covered by subdivision (1), (2), or (3). Level 1 - no actual harm with potential for minimal harm (as described in 42 CFR 488.404).~~

SECTION 6. IC 16-28-5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4. (a) The commissioner shall impose the following remedies for breaches of this article or a rule adopted under this article:

(1) ~~For an offense, a Level 4 breach,~~ the remedies specified in subsection (b)(1) ~~through (b)(2); and (b)(3).~~ The commissioner may also impose the remedy specified in subsection ~~(b)(3); (b)(4).~~

(2) For a Level 4 breach that is a repeat of the same Level 4 breach within a fifteen (15) month period, the remedies specified in subsection (b)(1) through (b)(2). The commissioner may also impose the remedies specified in subsection (b)(4).

~~(2) (3) For a deficiency, Level 3 breach,~~ the remedies specified in subsection (b)(1). The commissioner may also impose the remedies specified in subsection ~~(b)(4); (b)(5).~~

~~(3) (4) For a Level 3 breach that is a repeat of the same deficiency~~ **Level 3 breach** within a fifteen (15) month period, the remedies specified in subsection (b)(1) ~~through (b)(2); and (b)(3).~~ The commissioner may also impose the remedy specified in subsection ~~(b)(3); (b)(4).~~

~~(4) (5) For a noncompliance, Level 2 breach,~~ the remedies specified in subsection ~~(b)(5) (b)(7) through (b)(6); (b)(8).~~

~~(5) (6) For a breach that is a repeat of the same noncompliance~~ **Level 2 breach** within a fifteen (15) month period, the remedies specified in subsection (b)(1). The commissioner may also impose the remedies specified in subsection ~~(b)(4); (b)(6).~~

~~(6) (7) For a nonconformance, Level 1 breach,~~ the remedies specified in subsection ~~(b)(5); (b)(7).~~

~~(7) For a breach that is a repeat of the same nonconformance within a fifteen (15) month period, the remedies specified in subsection (b)(5) through (b)(6).~~

(b) The remedies for breaches of this article or rules adopted under

1 this article are as follows:

2 (1) ~~Issuance of an order for immediate correction of the breach.~~
 3 **Submission of an acceptable plan of correction by the health**
 4 **facility.**

5 **(2) Imposition of a fine not to exceed thirty thousand dollars**
 6 **(\$30,000) or suspension of new admissions to the health**
 7 **facility for a period not to exceed forty-five (45) days, or both.**

8 ~~(2) (3)~~ Imposition of a fine not to exceed ~~ten~~ **twenty** thousand
 9 dollars ~~(\$10,000)~~ **(\$20,000)** or suspension of new admissions to
 10 the health facility for a period not to exceed forty-five (45) days,
 11 or both.

12 ~~(3) (4)~~ Revocation by the director of the health facility's license
 13 or issuance of a probationary license.

14 ~~(4) (5)~~ Imposition of a fine not to exceed ~~five~~ **ten** thousand dollars
 15 ~~(\$5,000)~~ **(\$10,000)** or suspension of new admissions to the health
 16 facility for a period not to exceed thirty (30) days, or both.

17 **(6) Imposition of a fine not to exceed five thousand dollars**
 18 **(\$5,000) or suspension of new admissions to the health facility**
 19 **for a period not to exceed thirty (30) days, or both.**

20 ~~(5) (7)~~ A requirement that the health facility comply with any plan
 21 of correction approved or directed under section 7 of this chapter.

22 ~~(6) (8)~~ If the health facility is found to have a pattern of breach,
 23 the commissioner may suspend new admissions to the health
 24 facility for a period not to exceed fifteen (15) days or impose a
 25 fine not to exceed ~~one~~ **two** thousand dollars ~~(\$1,000); (\$2,000),~~ or
 26 both.

27 **(c) The commissioner may deduct from a fine imposed upon the**
 28 **health facility money expended by the health facility to retain a**
 29 **consultant or other health care professional approved by the**
 30 **director to assist the health facility in correcting a breach of this**
 31 **article or a rule adopted under this article.**

32 ~~(c) (d)~~ If a breach is immediately corrected and the commissioner
 33 has imposed remedies under subsection (b)(2) **or (b)(3)**, the
 34 commissioner may waive not more than fifty percent (50%) of the fine
 35 imposed and reduce the number of days for suspension of new
 36 admissions by one-half (1/2).

37 ~~(d) (e)~~ The commissioner may, with the concurrence of a licensed
 38 physician, impose the following:

39 (1) For an omission of care or an act that does not fall within a
 40 classification of a ~~rule~~ **breach** under this section and that the
 41 facility should reasonably have known would present a substantial
 42 probability that death or a life threatening condition will result,
 43 one (1) or any combination of the remedies specified in
 44 subsection (b)(1), ~~through (b)(3); (b)(2), and (b)(4).~~

45 (2) For an omission of care or an act that:

46 (A) does not fall within a classification of a ~~rule~~ **breach** under

1 this section; and
 2 (B) the facility should reasonably have known would result in
 3 an immediate or a direct, serious adverse effect on the health,
 4 safety, security, rights, or welfare of a patient;
 5 the remedies specified in subsection (b)(1) or ~~(b)(4)~~, **(b)(5)**, or
 6 both.

7 **(f) This section does not limit the authority of the commissioner**
 8 **to impose a fine or suspend new admissions to the health facility**
 9 **for each omission of care or act or repeat of an omission or act.**

10 **(g) The commissioner may renew an order suspending**
 11 **admissions issued under this section for successive periods.**
 12 **However, the suspension of new admissions to a health facility**
 13 **under a renewed order may not exceed ninety (90) consecutive**
 14 **days.**

15 SECTION 7. IC 16-28-5-12 IS ADDED TO THE INDIANA CODE
 16 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 17 1, 2001]: **Sec. 12. The state department may adopt rules to**
 18 **implement this chapter."**

19 Renumber all SECTIONS consecutively.
 (Reference is to ESB 222 as reprinted April 12, 2001.)

Representative Welch



Adopted

Rejected

COMMITTEE REPORT

MR. SPEAKER:

Your Committee of One, to which was referred Engrossed Senate Bill 222, begs leave to report that said bill has been amended as directed.

Representative Welch